(3)

BEFORE : HON'BLE HIGH COURT OF CHHATTISGARH

AT BILASPUR.

Writ petition No. 134 2000

Petitioner :- S.S. SHARMA
S/O SHRI SHANKARLAL SHARMA
aged about 45 years,
Additional Superintending Engineer,
Chhattisgarh State Electricity Board
(MPEB)
Kanker Distt. Kanker
(Chhattisgarh).

:: VERSUS ::

Respondents :- 1. Chhattisgarh State Electricity Board,
Through - Chairman
Chhattisgarh State Electricity Board,
Raipur (Chhattisgarh).

2. JOINT SECRETARY (P) - V
Madhya Pradesh Electricity Board
Shakti-Bhawan, Rampur,
JABALPUR (M.P.)

P.R. No. 136
Presented by Shri V.K. Kila
dated 14-11

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

W.P.No. 134 of 2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
21.3.2001	Petitioner by Shri V.G.Tamaskar, Advocate. Respondents by Shri R.S.Jayaswal, Advocate. Heard. The writ petitioner was placed under suspension vide order dt. 6.10.2000. Madhya Pradesh Civil Services(Classification,Control and Appeal) Rules, 1966 provides that the order of suspension shall stand revoked on expiry of the period of 90 days from the date of the order of suspension in case copy of the charges and other documents referred to in sub-rule(2-a) are not issued to such Govt. Servant. Rule 9 (2-a) states: "Where a Government servant is placed under suspension under clause(a) of sub-rule(1), the order of suspension shall contain the reasons for making such order and where it proposed to hold an enquiry against such Government servant under rule 14, a copy of the articles of charges,the statement of imputations of misconduct or mis-behaviour and a list of documents and witnesses by whcih each article of charge is proposed to be sustained shall be issued or caused to be issued by the disciplinary authority to such Government servant as required by sub-rule(4) of rule 14, within a period of 45 days from the date of order of suspension.	

[पीछे देखिये

आदेश का क्रमांक आदेश दिनांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

"Provided that where the disciplinary authority is the StateGovernment, the copy of charges and others documents mentioned above shall be issued or caused to be issued to such Government servant within a period of 90 days from the date of order of suspension."

Mr. V.G.Tamaskar, learned counsel for the petitioner submits that thoughx the petitioner was placed under suspension w.e.f. 6th October,2000, the order of suspension/charge-sheet was served upon the writ petitioner only on 6.2.2001. It appears from the pleadings and also after hearing the counsel ~~for~~ both the sides that the order of suspension/~~order of~~ charge-sheet was already signed on 20.12.2000. However, admittedly and apparently it was served on 6.2.2001 upon the writ petitioner. In the process Mr. Tamaskar submits that the charge-sheet came to be served long after the period of 90 days of the order of suspension and infact ~~xx~~ after 112 days. As regards the delay in serving the charge-sheet to the petitioner Mr Jayaswal submits that in veiw of thw sudden development of the coming into force of the new State of Chhattisgarh a transitional delay ~~took~~ occured in the way of service of the charge-sheet within 90 days. Mr. Tamaskar submits that there is no room for such explanation therefore such matter be dealt with in accordance with the Rules prescribed ~~in this regard and definitely the present case is~~

CRPRJ—FS/311—1/2001—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(24)

आदेश पत्रक

W.P. 134 of 2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Contd. 21.3.2001)

hit by Rule 9 (5)(a) of the said Rules.

It appears from the very operation of the provision particularly of Rule 9(5)(a) of the said Rules the order of suspension should have been revoked however Mr. Tamaskar submits that no order of revokation has been issued by the competent authority.

It is further submitted that it is open to the competent authority to take further action in the matter. The crux of the matter is that the competent authority should not have allowed 90 days to expire before service of the charge-sheet upon the petitioner.

In the result this petition is allowed. The impugned order of suspension issued on 6.10.2000 by the Joint Secretary, M.P.Electricity Board is quashed.

Certified copy, today.

Sd/-
Chief Justice

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Thakur.